

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

FILED

OCT - 7 2009

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY DM DEPUTY CLERK

CITY OF SAN ANTONIO, TEXAS, on)
behalf of itself and all other similarly situated)
Texas Cities)

Plaintiffs)

v.)

HOTELS.COM, , et al)

Defendants)

CIVIL NO. SA-06-CA-381-OG
A CLASS ACTION

ORDER

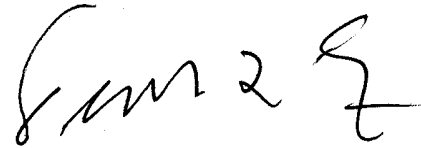
Due to the manner in which evidence has developed in this case, the Court modifies and/or supplements its prior order on Defendants' motion in limine as follows:

The Court initially determined that it would be prejudicial to allow the Texas Comptroller opinions to be admitted as evidence of liability under the ordinances. However, to the extent that Defendants' representatives testify that they had no prior knowledge or awareness of potential hotel tax liabilities, and they've made prior inconsistent statements in their depositions, Plaintiffs may impeach the witnesses with such testimony and discuss their knowledge or awareness of the Comptroller opinions for the purpose of establishing prior knowledge or notice. Moreover, if Defendants' representatives testify that they had no prior knowledge or awareness of potential hotel tax liabilities and they were the author(s) of letters requesting a Comptroller opinion, Plaintiffs may impeach the witness(es) on such basis. The Court will instruct the jury that it

may consider such evidence only as it relates to prior notice or knowledge, which is relevant to Plaintiffs' conversion claim and the issue of punitive damages.

IT IS SO ORDERED.

SIGNED this 7 day of October, 2009.

A handwritten signature in black ink, appearing to read "Orlando L. Garcia", written over a horizontal line.

ORLANDO L. GARCIA
UNITED STATES DISTRICT JUDGE